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DATE FILED: 6/3/16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

\$6,000,000.00 IN UNITED STATES
CURRENCY,

Defendant-in-rem.
----- x

AMENDED
FINAL JUDGMENT

12 Civ. 6023 (VM)

WHEREAS, on or about January 20, 2012, the hedge fund Diamondback Capital Management, LLC ("Diamondback") entered into a Non-Prosecution Agreement ("NPA") with plaintiff the United States of America, wherein, inter alia, Diamondback agreed to transfer to the Government and consent to the forfeiture of a total of \$6,000,000 (the "Defendant Property");

WHEREAS, the Defendant Property represented what was understood at the time to be the total amount of profits made, and losses avoided, by Diamondback as a result of illegal securities trades that were based, in whole or in part, on material non-public information obtained and utilized by Diamondback employees in an illegal manner;

WHEREAS, on or about August 7, 2012, a Verified Complaint, 12 Civ. 6023 (VM) (the "Complaint") was filed by the United States of America in the United States District Court for the Southern District of New York seeking the forfeiture of the Defendant Property pursuant to Title 18, United States Code, Section 981(a)(1)(C);

WHEREAS, pursuant to the NPA with plaintiff the United States of America, Diamondback waived service of the Complaint and agreed that a Final Order of Forfeiture may be entered;

WHEREAS, a copy of the Verified Complaint was sent to counsel for Diamondback and notice and publication was carried out pursuant to Rule G of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions;

WHEREAS, no party or entity filed a claim or an answer in this action as to the Defendant Property and on or about December 18, 2012, the Court entered a Default Judgment (the "Default Judgment") forfeiting the Defendant Property to the United States of America;

WHEREAS, based in part on legal developments subsequent to the entry of the Default Judgment, the United States of America has concluded that the Defendant Property should be released to Diamondback;

WHEREAS, the United States of America and Diamondback agree that the Default Judgment should be amended and a stipulated amended final judgment be entered pursuant to the terms and conditions below;

IT IS HEREBY STIPULATED AND AGREED, by and between the plaintiff, United States of America, by its attorney Preet Bharara, United States Attorney, Assistant United States Attorney Harry A. Chernoff, of counsel, and Diamondback, and its counsel, Peter G. Neiman, Esq., that:

1. The Defendant Property, \$6,000,000, shall be returned to Diamondback in accordance with the information provided by their counsel to the Government on the Unified Financial Management System (UFMS) Form provided to counsel for Diamondback.

2. Diamondback is hereby barred from asserting any claim against the United States of America (the "USA"), the Department of Justice (the "DOJ"), the United States Attorney's Office for the Southern District of New York (the "USAO-SDNY"), the Federal Bureau of Investigation (the "FBI"), or any agents and employees of the USA, the DOJ, the

SDNY-USAO, or the FBI, in connection with or arising out of the consent forfeiture of the Defendant Property including that Diamondback is a prevailing party, or that Diamondback is entitled to attorneys' fees or any award of interest.

3. Diamondback further represents that it is the sole owner of the Defendant Property and agrees to hold harmless the USA, the DOJ, the SDNY-USAO, and the FBI from any and all claims arising from any acts, incidents, or occurrences in connection with the seizure and/or possession of the Defendant Property, including but not limited to any third-party claims of ownership of the Defendant Property.

4. Each party shall bear its own costs and attorney's fees.

5. This Court shall have exclusive jurisdiction over the interpretation and enforcement of this Stipulated Amended Final Judgment.

6. This Stipulated Amended Final Judgment constitutes the complete agreement between the parties hereto and may not be amended except by written consent thereof.

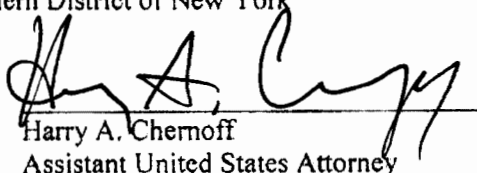
7. This Stipulated Amended Final Judgment may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Signature pages may be transmitted by fax or by electronic file in PDF format, and such signatures shall be deemed equivalent to valid originals.

8. The Clerk of the Court shall forward three certified copies of this Stipulated Amended Default Judgment to Assistant United States Attorney Jason H. Cowley, Chief of the Money Laundering and Asset Forfeiture Unit, One St. Andrew's Plaza, New York, New York 10007.

AGREED AND CONSENTED TO:

PREET BHARARA
United States Attorney for the
Southern District of New York

By:



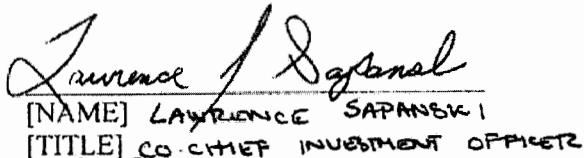
Harry A. Chernoff
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
Tel.: (212) 637-2481

Date

5/20/16

DIAMONDBACK CAPITAL MANAGEMENT, LLC

By:

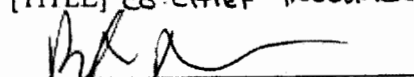


[NAME] LAWRENCE SAPANSKI
[TITLE] CO-CHIEF INVESTMENT OFFICER

Date

5/10/16

By:



Peter G. Neiman, Esq.
Attorney for Diamondback Capital
Management, LLC
WilmerHale
7 World Trade Center
250 Greenwich Street
New York, New York 10007
Tel.: (212) 230-8800

Date

5/10/16

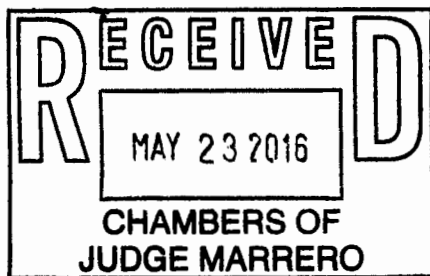
SO ORDERED:



THE HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE

Date

2 June 2016



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

May 20, 2016

BY HAND

The Honorable Victor Marrero
United States District Judge
Southern District of New York
United States Courthouse
New York, New York 10007


Re: United States v. \$6,000,000.00
in United States Currency,
12 Civ. 6023 (VM)

Dear Judge Marrero:

The parties in the above-referenced case respectfully submit the enclosed Amended Final Judgment which will return the Defendant-in rem, \$6,000,000, to Diamondback Capital Management, LLC, and which we respectfully request be ordered by Your Honor.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: 
Harry A. Chernoff
Assistant U.S. Attorney
(212) 637-2481

Enc.

cc: Peter G. Neiman, Esq. (via email)
Counsel to Diamondback Capital Management, LLC